

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
March 15, 2011

In the Matter of A. SULLIVAN-CHILDS, Minor.

No. 298678
Wayne Circuit Court
Family Division
LC No. 06-459450

Before: CAVANAGH, P.J., and JANSEN and SERVITTO, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the child under MCL 712A.19b(3)(g), (i), (j), and (l). We affirm.

The minor child was removed from respondent's care when she was three months old after a birth match showed that respondent's parental rights to three other children had been terminated one month before the minor child's birth. The court had taken those three children and a fourth child into its custody after one of the children suffered a skull fracture and respondent's explanation of the manner in which the child injured himself was inconsistent with the nature of the injury. Six months later, a fire at respondent's home seriously injured two of the children who were in the home in violation of the court order that prohibited respondent's unsupervised visits with the children. One of the children subsequently died from his injuries. The court terminated respondent's parental rights to the three surviving children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).

The petition in the instant case sought termination of respondent's parental rights to A. Sullivan-Childs based on the previous terminations. In exchange for respondent's plea to the petition for the purpose of establishing jurisdiction, the court agreed to delay the termination hearing for 90 days during which petitioner agreed to provide services to respondent. Because petitioner had expressed some concerns about respondent's use of illegal drugs, the treatment plan also required respondent to submit weekly screens. The court ordered visits to be suspended if any screens were positive; visits could then be reinstated only if respondent submitted two consecutive negative screens.

Three months later, the caseworker testified that respondent had complied with most aspects of her treatment plan. However, the caseworker expressed concerns about respondent's drug use. Of the 13 screens respondent was requested to submit, ten were positive for marijuana,

one was refused, one was negative, and one was “temperature out-of-range.” Although respondent was participating in substance abuse treatment, the caseworker concluded, based on the screens, that respondent had not benefited. Based on this and on concerns that respondent might have some unresolved mental health issues, had not adequately addressed the death of her son in the house fire, and continued to contact the children over whom her parental rights had been terminated, the caseworker recommended that respondent’s parental rights be terminated. The court held that clear and convincing evidence supported termination under MCL 712A.19b(3)(g), (i), (j), and (l), and proceeded to the best interests portion of the proceeding.

In connection with the best interests hearing, the caseworker testified that termination of respondent’s parental rights was in A. Sullivan-Childs’ best interests because respondent was incapable of addressing her substance abuse. Respondent’s sister, who was the child’s caregiver and had supervised respondent’s visits with the child before the suspension of visits, testified that respondent had visited the child daily and her interaction with the child was appropriate. She acknowledged that respondent had used drugs for possibly ten years but felt that respondent’s drug use did not affect her care of the child and that the child and respondent had a strong bond.

The court elected to adjourn the best interests hearing for three months to give respondent the opportunity to address her substance abuse. During this period, respondent was provided with services and had to submit weekly screens. At the next hearing, the caseworker testified that respondent had submitted 11 screens in the previous three months. Nine of those screens were positive for THC, seven being true positives and two being diluted with traces of THC. Another screen was negative for THC but positive for alcohol. Although respondent continued to participate in intensive substance abuse counseling, which was provided in her home twice a week and was combined with individual therapy, the caseworker again concluded that, based on her screens, respondent had not benefited from services. Further, respondent had not visited the child for six months because she failed to produce two consecutive negative screens.

Respondent contended that she had stopped using marijuana four weeks earlier and that a screen would show that she was clean. The court ordered respondent to submit a screen after the hearing and on a weekly basis and adjourned the hearing for two weeks. At the next hearing, the screen report showed that, during the two weeks, respondent tested positive for marijuana once and positive for alcohol once. Noting the many opportunities it gave respondent to address her substance abuse and the tragic history with respondent’s other children, the court concluded that termination was in A. Sullivan-Childs’ best interests.

The foregoing evidence showing respondent’s history of failing to protect her children from injury in the previous case and her inability or unwillingness to address her substance abuse in the instant case establishes that the trial court did not clearly err in finding termination was appropriate under MCL 712A.19b(3)(g) and (j). MCR 3.977(H)(3); MCR 3.977(K); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the earlier termination of respondent’s parental rights to her three surviving children despite the services provided to her establishes that the trial court did not clearly err in terminating respondent’s parental rights under

MCL 712A.19b(3)(i) and (l). The evidence also showed that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not clearly err in terminating respondent's parental rights to the child.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Kathleen Jansen

/s/ Deborah A. Servitto